

MDR Tracking Number: M5-04-0035-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-2-03.

The IRO reviewed work hardening program from 10-1-02 through 10-3-02.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 11-19-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The requestor did not respond to the request for additional documentation. The respondent submitted a letter stating that partial payments were made for several dates of service pending the results of the peer review. Based on the peer review dated 12-27-02, the work hardening was found not to be reasonable and necessary and did not meet TWCC/MFG standards. No additional EOBs were submitted. Since the original EOBs for dates of service 9-16-02 through 9-25-02 and 10-9-02 through 10-11-02 were denied as "H – reimbursement is based upon half of the fee amount pending decision of audit or review" the review will be per the 1996 *Medical Fee Guideline*. Relevant information was not submitted to support delivery of services. No reimbursement recommended.

## ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 10-1-02 through 10-3-02 in this dispute.

This Order is hereby issued this 11th day of February 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division  
DZT/dzt

November 14, 2003

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-04-0035-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medication and rehabilitation. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

#### Clinical History

This case concerns a 21 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work he fell from a scaffold landing on his right hip and the right side of his face. The diagnosis for this patient was fracture of the right femur. The patient underwent an initial surgery to his right femur. This first surgery created too much external rotation and a second surgery was performed to correct the misalignment. The patient's second surgery consisted of an intermedullary rod placement and four screws were inserted. Postoperatively the patient was treated with physical therapy. The patient then participated in a work hardening program.

#### Requested Services

Work Hardening from 10/1/02 through 10/3/02.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ physician reviewer noted that this case concerns a 21 year-old male who sustained a work related injury to his right hip and right side of his face on \_\_\_. The \_\_\_ physician reviewer indicated that this patient had right lower extremity weakness secondary to femur fracture, surgery twice and a prolonged convalescence. The \_\_\_ physician reviewer noted that this patient was treated with physical therapy and was returned to light duty capacity work on 8/5/02. The \_\_\_ physician reviewer also noted that the patient began a full time (8 hours/day) work hardening program that included generalized conditioning (strengthening, exercises, upper and lower back strengthening exercises, ramp climbing, cart pushing/pulling, balance activities, support and psychological evaluation) on 9/16/02 and continued through 10/3/02. The \_\_\_ physician reviewer explained that a traditional physical therapy program with concentration only on the affected extremity would not be successful in returning patient to full duty work. The \_\_\_ physician reviewer also explained that it has been shown in chronic back pain patients that cognitive-behavioral approaches plus physical therapy (job specific or not) that include aerobic capacity/muscle strengthening, endurance and coordination training and are in some way work related, are effective in reducing recurrence of injury and sick days, when compared to usual care. Therefore, the \_\_\_ physician consultant concluded that the work hardening from 10/1/02 through 10/3/02 were medically necessary to treat this patient's condition at this time.

Sincerely,